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SUBJECT: ISRAEL'S CONSTRUCTIVE NO-CONFIDENCE MECHANISM:
MUCH ADO ABOUT NOTHING? (C-NE4-01236)

REF: 2004 STATE 268778

Classified By: Political Counselor Norman Olsen for reasons 1.4 (b,d).

1. (C) Summary: The 2003 revision of Israel's no-confidence vote mechanism to require that all Knesset members voting no-confidence pre-designate a single candidate to form a new government was designed to keep government opponents from resorting too frequently to time-consuming no-confidence motions. In practice, however, opposition parties often file multiple no-confidence motions each week on various and sundry issues -- from closure of a hospital to withdrawal from Gaza -- to grumble about their pet issues, even with no hope of toppling the government. So why, then, do they bother? This cable examines the Knesset's use of the no-confidence vote and the understanding by the media, academia, and Knesset members of this political tool. End summary.

Constructive No-Confidence: Alternative Leader Named

2. (C) The constructive no-confidence mechanism has been in effect under Israel's revised Basic Laws since January 2003, and requires that sponsors of any no-confidence motion name -- in the motion -- a Knesset member who, in the event the motion passes, will be charged by the president "with the task of forming a new Government." Passage of a constructive no-confidence motion requires an absolute Knesset majority of 61 out of 120 members, as with the previous law. In the event that the constructive no-confidence vote passes, the government "shall be deemed to have resigned on the day of the expression of no confidence," and the designated MK, known as the replacement prime minister, is given up to 42 days to form a new government. If that Knesset member cannot do so, elections are mandated.

3. (C) According to the Knesset's Rules of Procedure, only parties represented in the Knesset can sponsor no-confidence motions, and parties with fewer than 10 MKs are limited to three no-confidence motions in a parliamentary year. Each no-confidence motion must include "the written consent of the Knesset member" who would serve as replacement prime minister in the event the motion carries. Therefore, if the secular Shinui party, for example, were to sponsor a constructive no-confidence motion on the GOI's failure to promote civil marriage legislation, attached to that motion would be the written consent of an individual MK, most likely Shinui leader Tommy Lapid, to serve as replacement prime minister. All MKs voting for that motion would knowingly also be voting for Tommy Lapid to be tasked with forming a new government in the event the motion passes.

4. (C) Eli Hazan, legislative assistant in the office of the coalition whip, told poloff that in all such no-confidence motions to date, the replacement prime minister has invariably been the leader of the party sponsoring the motion, although he or she could be any member of the Knesset. The mechanism by which Likud rebels, or members of any other party, would actually decide to submit a no-confidence motion against their own leader and list someone other than the current party leader as replacement prime minister is far from clear. Since the Knesset rules require that such motions can be submitted only by parties -- not individuals -- the Knesset leadership would need to make a determination that such a motion was actually submitted on behalf of a party, not just on behalf of some members of a party. Complicating that determination is the fact that each party's decision-making process is different. Likud, for instance, has a strong, vocal Central Committee that party leader and Prime Minister Ariel Sharon has nonetheless sometimes ignored. Thus, would a motion submitted by 13 Likud rebels with Central Committee endorsement and listing someone other than Sharon as replacement prime minister constitute a legitimate no-confidence motion in the eyes of the Knesset leadership and lawyers? Shas, on the other hand, relies solely on the word of its spiritual leader, Rabbi Ovadia Yosef for decisions of this magnitude. Equally important are the political costs that a replacement prime minister such as Bibi Netanyahu would face by allowing his name to be put forward. Justice Ministry Liaison and Likud MK Paz Barnett noted to poloff that Netanyahu earlier declined to allow right-wing MKs to submit his name as a replacement prime minister. He also said that the chances

are very unlikely of Likud submitting a no-confidence motion against Sharon.

Number of No-Confidence Motions Increases

15. (C) According to Israel Democracy Institute Senior Fellow Asher Arian, politicians who originally pressed for the constructive no-confidence provision intended it to limit the use of no-confidence votes and thereby ensure greater governmental stability. They reasoned, according to Arian, that requiring that a replacement prime minister be named in the motion would reduce the number of motions since it would be more difficult to achieve consensus on a replacement. Arian pointed out that the number of no-confidence motions has in fact increased since the introduction of the constructive no-confidence motion. He provided poloff with data showing that the average monthly number of no-confidence votes has increased from 2.9 votes in the last Knesset, before the constructive no-confidence provision took effect, to 3.5 votes in the current Knesset.

16. (C) Likud MK Uzi Landau, who characterizes himself as the father of the "constructive no-confidence motion," told poloff that his intention was to reduce the number of no-confidence motions by making success of the motion more difficult. Landau lamented that his brainchild has not had that effect. MOJ advisor Barnett commented that the requirement for a replacement prime minister hardly constrains those filing no-confidence motions. MKs, he said, are concerned about who is listed on the no-confidence motion as replacement leader only when there is a chance the motion will receive 61 votes. So far, the highest vote total in favor of any constructive no-confidence motion has been a 56-56 tie. Even then, Barnett commented, MKs may support another party's no-confidence motion having calculated that the replacement prime minister is incapable of forming a new coalition. The no-confidence vote thus becomes a de facto vote for new elections.

MKs Use No-Confidence Vote as Soapbox

17. (C) The constructive no-confidence vote is -- regardless of its authors' intent -- mostly used by MKs as a public vehicle to make political brownie points with their constituencies without seriously threatening the government. The ultra-Orthodox Shas party, for example, might sponsor a no-confidence motion against the Sharon government to protest cuts in child allowances. Shas knows, however, that it will not obtain 61 votes in favor of the motion, and that the Shinui party, which leads the opposition, will not only oppose the resolution in substance, but would never agree to Shas leader Eli Yishai as replacement prime minister. Shas, however, sponsors the motion regardless, in part for the opportunity to raise the issue in the televised Knesset session. Shas MK Amnon Cohen told Poloff that his colleagues understand the no-confidence mechanism well and that they use it to debate issues, but that "they don't treat it seriously." Cohen assessed that the no-confidence votes every Monday "are a good use of time" for the purpose of discussion.

18. (U) National Union MK Zvi Hendel echoed Cohen's reasoning. According to a January 31 Ha'aretz article, Hendel said that his faction submits the motions because "the discussion of the no-confidence motion provides a platform for voicing political positions in detail, expressing feelings and shaping public opinion." The Ha'aretz article also maintained that no-confidence motions have presented less of a threat and nuisance to the Sharon government since Shinui departed the coalition and subsequently became the lead opposition party in January. The author of the article "Fractured Factions of the Opposition," Gideon Alon, pointed out that several parties in the opposition, such as the religious Shas party, do not even recognize the arch-secular Lapid as leading the opposition and that, because of the opposition's divisions, no-confidence motions cannot gain the necessary 61 votes to topple the government. "The main beneficiary to (sic) this situation," he wrote, "is the coalition, which needs no effort to vote down the no-confidence motions one after another."

19. (C) According to Alon, the current situation contrasts greatly to the situation before Shinui became the lead opposition party. At that time, Likud MK and coalition chairman Gideon Sa'ar could not be absent from no-confidence votes as he was needed to rally majorities against them. Sharon's senior advisor, Dov Weissglas, once complained to emboffs before Shinui took over as leader of the opposition that the weekly no-confidence votes were time-consuming for Prime Minister Sharon, since he often had to attend the votes to ensure that they were defeated.

No-Confidence: Public Entertainment

10. (C) While academics and political commentators for the most part understand the mechanics of the constructive no-confidence vote, journalists for the major Israeli media reporting on Israel's fast-moving political scene often exaggerate the importance of no-confidence votes, perhaps partly to sell papers. Major Israeli newspapers, for example, often use headlines claiming that Sharon "narrowly survives" a no-confidence vote when the tally of yeas and nays is close, even if the motion received far fewer than the 61 votes necessary to topple the government. The media "doesn't understand (the no-confidence vote)," Alon commented, "and the public certainly doesn't understand it." For the opposition parties, Arian commented, it is "Monday's show." Arian compared the public's interest in the outcome of no-confidence votes to its interest in sports events. It is entertainment, according to Arian, "an escape from reality." The public, he said, "just cares about who comes out on top."

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